

STATE OF INDIANA  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
PERMIT FOR  
CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)

In compliance with the provisions of the Federal Water Pollution Control Act, (33 U.S.C. Section 1251 *et seq.* "the Act") and IDEM's authority under IC 13-15,

MCGRADY HOG FARM #1,

is authorized to operate their facility located at 680 South S.R. 341, Hillsboro, Indiana in Fountain County, in accordance with all limitations, monitoring requirements, and other provisions set forth herein.

A copy of this permit must be kept by the permittee at the site of the permitted activity.

In order to receive authorization to operate beyond the date of expiration, the permittee shall submit such information and forms as are required by the Indiana Department of Environmental Management no later than 180 days prior to the date of expiration.

Effective Date: December 1, 2002

Expiration Date: September 30, 2007

Signed this 25th day of October, and 2002 for the Indiana Department of Environmental Management.



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Timothy J. Method  
Deputy Commissioner

## **PART I. PERMIT REQUIREMENTS**

### **A. Effluent Limitations and Discharge Prohibitions**

1. The permittee shall not have any contaminated point source discharges to surface waters of the state from any animal confinement facilities, manure storage systems, manure treatment systems, or areas used for the manure handling or storage of any raw materials, intermediate products, final products, or dead animals used in or resulting from the production of animals. The manure storage facility must be designed and operated to hold all manure generated by the confined feeding operation and storm water contaminated from contact with manure or above mentioned products, materials or byproducts.
2. A discharge from any animal confinement facility, manure handling or storage system, or areas used for the handling or storage of any raw materials, intermediate products, final products, or dead animals, is permissible only if it is a result of a catastrophic rainfall event which causes the overflow from a storage facility that has been properly designed, constructed, and operated to hold all manure and contaminated storm water from a 25 year 24 hour rainfall event.
3. The permittee must ensure that activities associated with the CAFO operation do not cause or contribute to non-attainment of state water quality standards. In response to its own finding of water quality problems or based upon documented evidence presented to or collected by IDEM, IDEM may, upon written notice, require the permittee to develop and implement additional best management practices (BMPs) or use of other control measures to abate an existing problem or to reduce the potential of future water quality problems.
4. If the facility has a discharge into the waters of the state, all waters of the state at all times and at all places shall meet the minimum conditions of being free from substances, materials, floating debris, oil, or scum attributable to the discharge:
  - a. That will settle to form putrescent or otherwise objectionable deposits;
  - b. That are in amounts sufficient to be unsightly or deleterious;
  - c. That produce color, visible oil sheen, odor, or other conditions in such a degree as to create a nuisance;

- d. Which are in amounts sufficient to be acutely toxic to, or to otherwise severely injure or kill aquatic life, other animals, plants or humans;
- e. Which are in concentrations or combinations that will cause or contribute to the growth of aquatic plants or algae to such degree as to create a nuisance, be unsightly, or otherwise impair the designated use.

**B. Performance Standards**

- 1. Avoid practices that result in the discharge of manure, wastewater, and contaminated storm water into the state's waters.
- 2. Minimize non point source pollution of the state's waters.
- 3. Design, construct and maintain waste management systems to minimize leakage and seepage and to prevent the discharge of manure and contaminated wastewater.
- 4. Manure to be land applied must be handled and applied in such a manner as:
  - a. not to enter or threaten to enter waters of the state;
  - b. to prevent:
    - i. run-off;
    - ii. ponding for more than twenty-four (24) hours; and
    - iii. spills; and
  - c. to minimize nutrient leaching beyond the root zone.
- 5. Manure must be applied at rates based on results of manure and soil analyses and the Indiana FOTG 590 Standard. If the rate of application is based on nitrogen as the limiting factor, the potentially available nitrogen must not exceed the nitrogen requirements of current or planned crops of the upcoming growing season as documented in the operating record. A schedule of compliance, Part I.F. of this permit, has been given to achieve compliance with the Indiana FOTG 590 Standard. Part I.E.7 provides greater detail for compliance with determining proper application rates.

**C. Operational Requirements**

1. All waste management systems must be maintained and operated to meet conditions and requirements in this permit and with the Indiana Confined Feeding Approval Letter given to this facility.
2. Manure must be maintained within an approved manure storage structure until removed for land application
3. If uncovered, manure storage structures must be maintained with at least two feet of freeboard.
4. If any uncovered manure storage structure collects storm water or manure runoff within the two foot freeboard space, the volume above the two foot mark must be removed and properly land applied in compliance with Part I of this permit as soon as weather and soil conditions allow.
5. The permittee shall inspect all waste management systems at least once every two weeks and complete the self monitoring report to be maintained in the farm operating record. Part II. A. of this permit specifies the self monitoring requirements .
6. Uncovered liquid manure storage structures must have:
  - a. clearly identified markers to indicate the manure level relative to the required freeboard elevation
  - b. berms stabilized with vegetation or alternate erosion control measures
  - c. berms maintained to allow visual inspection

**D. Best Management Practices for Land Application of Manure**

1. Manure Application Rates
  - a. The owner/operator of a confined feeding operation shall have a soil test and a manure test conducted in accordance with the manure management plan that has been submitted to the commissioner.
  - b. The land application equipment shall be calibrated based on manure and soil test results to enhance the ability to apply nutrients uniformly on the site.

- c. Land application rates must be adjusted based on the Indiana FOTG 590 Standard. See condition standards under I.B.5 of this permit.
- d. If the application rate is based upon potentially available nitrogen, the rate shall not exceed the nitrogen requirements of current or planned crops of the upcoming growing season as documented in the operating record.
- e. Land application information must be added to the operating record as required in Part II.B. of this permit.

2. Manure Application Activities

- a. Manure that is staged at the manure application site is subject to Part I.A. of this permit. Manure that is staged at the manure application site for more than seventy-two (72) hours must be:
  - i. covered or otherwise protected; and
  - ii. applied to the site within ninety (90) days.
- b. Staging of solid manure at the manure application site is prohibited:
  - i. within three hundred (300) feet of surface waters of the state, drainage inlets, including water and sediment control basins, or water wells unless there is:
    - A. a barrier is any item or surface gradient that contains or directs any contaminated run-off away from the waters of the state, including drainage inlets, water and sediment control basins, or water wells; or
    - B. a surface gradient that contains or directs any contaminated run-off away from the waters of the state, drainage inlets, including water and sediment control basins, or water wells;
  - ii. on any area with a slope greater than six percent (6%), unless run-on and run-off is controlled; or
  - iii. on any standing water or waterway.

- c. To prevent leaks or excessive application of liquid manure spray irrigation must be conducted:
  - i. under the constant supervision of a person designated by the owner/operator or as specified in the approval; or
  - ii. with devices to detect pressure loss due to leaks and devices to shut down the system if leaks are detected; or
  - iii. in accordance with a spray irrigation plan approved by the Solid Waste Permits Branch, Office of Land Quality (SWPB, OLQ) and maintained in the farm operating record.
- d. Spray irrigation of manure must not be applied to any land that has less than twenty (20) inches of soil above the bedrock unless in accordance with an approved spray irrigation plan.
- e. Spray irrigation in a flood plain must be conducted in accordance with a spray irrigation plan that:
  - i. addresses spray irrigation in a flood plain; and
  - ii. has been approved by the SWPB, OLQ and maintained in the farm operating record.
- f. Application of manure to frozen ground must be handled in accordance with the following:
  - i. Surface application of manure to slopes in excess of two (2) percent without adequate residue protection (equal or greater than USDA thirty (30) percent standard) or crop cover is prohibited on snow covered or frozen ground.
  - ii. Spray irrigation of liquid manure to snow covered or frozen ground is prohibited.
  - iii. Any manure application that causes a water quality violation is a violation of this permit.
- g. Manure must not be applied to the land from manure application equipment operating on a public road.

- h. Liquid or solid manure must not be applied to highly erodible land unless:
  - i. the land has adequate residue protection (USDA thirty (30) percent standard) or crop cover; or
  - ii. in accordance with a conservation plan. The plan must be maintained in the operational record specified in Part II.B. of this permit.
- i. When planning surface application of manure, the permittee must take into account the weather forecast to avoid applying manure prior to a rain event forecasted within 24 hours.
- j. Manure shall not be applied on saturated ground. Saturated ground has no further capacity to absorb any more materials applied to it.

### 3. Manure Application Setbacks

- a. Except under subsections (e) and (f), application of manure must be in accordance with the setbacks in Table 1:

Table 1. SETBACK DISTANCES (in feet)				
Known Feature	Liquid Injection or Single Pass Incorporation	Liquid Incorporation; Application to Pasture; or Solid or Composted Manure Application	Liquid Surface Application	
			Less than or Equal to 6 % Slope; or Residue Cover	Greater than 6 % Slope
Public water supply wells and public water supply surface intake structures	500	500	500	500
Surface waters of the state, including water and sediment control basins	25	50	100	200
Sinkholes (measured from the surficial opening or the lowest point)	25	50	100	200
Wells	50	50	100	200
Drainage inlets	5	50	100	200
Property lines and public roads	0	10	50	50

- b. Liquid incorporation of manure in Table 1 means only manure that has been incorporated into the soil within twenty-four (24) hours of placement on the land.
- c. All setback distances must be measured from the edge of the area of actual placement of manure on the land.

- d. The property line setback distances specified in subsection (a), Table 1, may be waived in writing by the owner of the adjoining property without the requirement to modify this permit. Waivers must be kept in the operating records.
- e. If a filter strip is designed and maintained in accordance with USDA NRCS Standard No.393 and it is located between the application site and:
  - i. waters of the state;
  - ii. any known well;
  - iii. the surficial opening or lowest point of any sinkhole; or
  - iv. any drainage inlet, including water and sediment control basins; then the setback is the width of the filter strip.
- f. The setback is ten (10) feet if a gradient barrier is located between the application site and:
  - i. surface waters of the state;
  - ii. any known well;
  - iii. the surficial opening or lowest point of any sinkhole; or
  - iv. any drainage inlet, including water and sediment control basins.
- g. The owner/operator may obtain a reduced setback via permit modification by demonstrating to the commissioner that a different compliance approach meets the performance standards in Part II of this permit.

**E. Special Conditions**

1. Manure Additives

The permittee shall not add chemicals or other substances that will render the manure unsuitable for land application.



2. Emergency Discharge Impact Abatement

Discharges authorized by Part I. A.2. of this permit must, where practicable, be properly discharged to land application fields or held in secondary containment for filtering to minimize discharge.

3. Spills

Appropriate measures necessary to prevent spills and to clean up spills of any toxic and other pollutants shall be taken. If possible spills are anticipated, materials handling procedures and storage must be specified in the spill response plan. Procedures for cleaning up spills shall be identified, and the necessary equipment to implement clean up shall be made available to facility personnel. All reportable spills outlined in 327 IAC 2-6.1( spill regulation) must be reported to IDEM.

4. Documentation of Rainfall

In order for the permittee to use the discharge exception, they must provide documentation which establishes the conditions necessary to meet the exception.

5. Employee Training

Where employees are responsible for work activities which relate to permit compliance, those employees must be regularly trained or informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal. Training shall include topics as appropriate such as land application of wastes, proper operation and maintenance of the facility, good housekeeping and material management practices, necessary record-keeping requirements, and spill response and clean up. The permittee is responsible for determining the appropriate training frequency for different levels of personnel and the schedules for training.

6. Closure of Manure Storage Structures

The closure of any manure storage structure must be in compliance with the following which states:

- a. The owner/operator of a confined feeding operation that plans to close or discontinue use of a manure storage structure shall:

- i. close the manure storage structure in accordance with the closure requirements in this section prior to expiration of the permit; or
  - ii. until the manure is removed, continue to maintain the manure storage structure in accordance with the requirements of this section of the permit.
- b. If the confined feeding operation will not be completely closed, the owner/operator shall apply for a modification to the approval for any manure storage structure that is to be closed, and:
  - i. recalculate the storage capacity for the confined feeding operation; and
  - ii. notify the department:
    - A. before demolishing or converting the use of any manure storage structure; and
    - B. of the intended future use of the manure storage structure if the manure storage structure is to be converted to another use.
- c. The owner/operator of manure storage structures that are to be closed shall:
  - i. have all the manure removed from the manure storage structure;
  - ii. have the manure applied to the land in accordance with the conditions of this permit, and
  - ii. have all associated appurtenances, and conveyance structures removed from uncovered liquid manure storage structures
- d. the conditions of this permit; and

- e. The owner/operator shall submit a certification to the commissioner within thirty (30) days of completing the requirements in this section that states compliance with the requirements in this section.
- f. If deemed necessary to protect human health or the environment, the commissioner may require additional closure activities based on:
  - i. surface or ground water contamination;
  - ii. evidence of leakage, seepage, or spills; or
  - iii. other criteria related to protection of human health or the environment.

7. Commercial Fertilizers

All sources of crop fertilizers must be taken into account when determining proper application rate of each source. If the application of manure does not provide the total expected nitrogen needed to produce a realistic crop yield, commercial fertilizers may be used to provide the deficient amount prior to planting, during planting or side dressed. Any assumed nitrogen losses shall be limited to industry standards for volatilization and denitrification. All sources of nitrogen and phosphorous must be recorded in the land application records detailed in Part II, B of this permit.

**F. SCHEDULE OF COMPLIANCE**

1. The permittee shall achieve compliance with the Indiana FOTG 590 Standard in accordance with the following schedule:
  - a. The permittee shall submit a written progress report to the Solid Waste Permits Section of the Office of Land Quality (OLQ) nine (9) months from the effective date of this permit. The progress report shall include a description of the method(s) selected for meeting the Indiana FOTG 590 Standard, in addition to any other relevant information. The Indiana FOTG 590 Standard is deferred for the term of this compliance schedule, unless the it can be met at an earlier date. The permittee shall notify the Solid Waste Permits Section of OLQ as soon as the Indiana FOTG 590 Standard can be met. Upon receipt of such notification by OLQ, the Indiana FOTG 590 Standard will become effective. The Indiana FOTG 590 Standard must be met no later than 24 months from the effective date of this permit.
  - b. If for any reason construction is required to meet the new effluent limits, initiation of construction shall commence no later than eighteen (18) months from the effective date of this permit.
  - c. The permittee shall comply with the Indiana FOTG 590 Standard no later than twenty-four (24) months from the effective date of this permit.
2. If the permittee fails to meet any of the above actions in the foregoing schedule by more than fourteen (14) days, the permittee shall submit a written notice of noncompliance to the Compliance Evaluation Section of Ag and Solid Waste Compliance Section OLQ stating the cause of noncompliance, any remedial action taken or planned, and the probability of meeting the remaining terms of the schedule.

## **PART II. Monitoring, Record Keeping and Reporting**

### **A. Self Monitoring**

1. The owner/operator shall inspect all waste management systems for compliance with this permit at least once every two weeks. Completed self-monitoring records must be kept in the operating record described in Part II.B. of this permit.
2. Self-inspections of the facility must be carried out routinely but no less frequently than once every two weeks. Monitoring weekly and after measurable wet weather events is recommended. Copies of the reports of these inspections must be kept in the permittee's operating records and available for review upon request.

The inspections, at a minimum, shall include evaluation of the adequacy, stability, and operation of the manure handling and storage facilities.

The self-inspection results shall be recorded in the operating records. The report shall document the results of these inspections, identify any problems or shortcomings and the steps taken, to correct these problems.

### **B. Operating Record Keeping**

1. The following information must be in the operating record to be maintained and updated on farm and accessible to IDEM as needed:
  - a. The type of manure applied.
  - b. Results of manure tests. Manure tests must be obtained to provide sufficient information about the manure content to be used in conjunction with soil test results to allow for determining application rates for existing or planned crops and be conducted no less than once every three years.
  - c. Soil tests for each manure application site. Soil tests must provide sufficient information about the site soil fertility to be used in conjunction with manure tests to allow for determining application rates for existing or planned crops and be conducted no less than once every three years.
  - d. The amount of manure applied.
  - e. The type of application method used.
  - f. Identification of locations and number of acres on which manure is applied.

- g. The dates on which the manure is applied.
  - h. Documentation of the application rates per acre for each field.
  - i. Soil conditions at the time of manure application (e.g. saturated, at field capacity, frozen, snow covered)
  - j. Precipitation during and for 24-hours after the manure application.
2. The following information must be added to the operating record:
- a. All valid approvals, modifications, and notifications relevant to the approvals.
  - b. The current manure management plan.
  - c. The current emergency spill response plan.
  - d. Property line waivers.
3. The operating record must also contain all applicable records from the following:
- a. completed self-monitoring records for the past three (3) years..
  - b. land application records for the past five (5) years.
  - c. manure marketing and distribution records for the past three (3) years.
  - d. documentation of any spill response made within the past five (5) years.
  - e. any IDEM approved spray irrigation plan or any USDA, NRCS Conservation Plan.
4. Retention of records: The permittee shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports or records required by this permit, for a period as listed in Part II.B. of this permit from the date of the sample, measurement, or report. This period may be extended by request of the permitting authority at any time.

5. Record content: Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The company/farm employee who performed the sampling or measurements;
  - c. The date(s) analyses were performed;
  - d. The company/firm who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
6. A copy of self-inspection reports and implementation schedules must be kept on site and be available for review by IDEM or the U.S. EPA upon request for time frames listed in Part II.B. of this permit after the date of inspection.

**C. Reporting Requirements**

1. The permittee shall submit a copy of the soil test and the manure test along with the manure application records to IDEM annually.
2. Transfers: This permit is only transferable to any party after notice to IDEM. IDEM may require modification or revocation and re-issuance of the permit to change the name or the permittee and incorporate such other requirements as may be necessary under the CWA.

**D. Notification of Discharges from Retention Structures and Land Application**

If, for any reason, there is a spill or discharge of manure, wastewater, or contaminated storm water to a water of the state, the permittee is required to make immediate oral notification within 2 hours to IDEM's Office of Emergency Response at 317/233-7745 or 888/233-7745 (toll-free within Indiana) of any discharges which meet the criteria of 327 IAC 2-6.1. and notify the IDEM in writing within five (5) working days of the discharge from the facility. In addition, the permittee shall keep a copy of the notification submitted to the IDEM with the farm operating record. The discharge notification shall include the following information:

1. Time of the discharge: The period of non-compliance, including exact dates and times, the anticipated amount of time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the discharge.

**E. Monitoring Requirements for Discharges**

In the event of any discharge of pollutants to waters of the state from any animal confinement facility, manure handling or storage system, or land application site, the following actions shall be taken after completing required spill response:

1. Analysis of the discharge: All discharges shall be sampled and analyzed. Samples must, at a minimum, be analyzed for the following parameters: total suspended solids (TSS); ammonia-nitrogen; nitrate as nitrogen; and pH.
2. Estimate volume of the discharge: Record an estimate of the volume of the release and the date and time.
3. Sampling procedures: Samples shall consist of grab samples collected from the over-flow or discharges from the retention structure. A minimum of one sample shall be collected from the discharge (within 30 minutes). Samples collected for the purpose of monitoring shall be representative of the monitored discharge. Monitoring results must be submitted to the permitting authority within 30 days.

The analytical and sampling methods used shall conform to 40 CFR, Part 136. The approved methods may be included in the texts listed below. However, different but equivalent methods are allowable if they receive the prior written approval of the Commissioner and the U.S. Environmental Protection Agency.

- a. Standard Methods for the Examination of Water and Wastewater  
18th Edition, 1992, American Public Health Association,  
Washington, D.C. 20005.
- b. A.S.T.M. Standards, Part 23, Water; Atmospheric Analysis  
1972 American Society for Testing and Materials,  
Philadelphia, PA 19103.
- c. Methods for Chemical Analysis of Water and Wastes  
June 1974, Revised, March 1983, Environmental Protection Agency,  
Water Quality Office, Analytical Quality Control Laboratory,  
1014 Broadway, Cincinnati, OH 45202.



4. Reasons for not sampling: If conditions are not safe for sampling or there was no opportunity to sample, the permittee must provide documentation of why samples could not be collected. For example, the permittee may be unable to collect samples during dangerous weather conditions (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.). However, once the discharge material was not sampled the permittee shall collect a sample from the retention structure (pit or lagoon) from which the discharge occurred.

### **PART III. STANDARD PERMIT CONDITIONS**

#### **A. General Conditions**

1. Introduction: In accordance with the provisions of 40 CFR Part 122.41, et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the “Act”) as well as ALL applicable regulations.
2. Duty to Comply: The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and re-issuance, or modification; or denial of a permit renewal application.
3. Toxic pollutants: The permittee shall comply with effluent standards and prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
4. Permit actions: This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request for a permit modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
5. Property rights: The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State/Tribal or local laws or regulations.
6. Duty to provide information: In accordance with 327 IAC 5-1-3, the permittee shall furnish to IDEM, within a reasonable time, any information relevant to the collection storage, handling, and application of manure, wastewater, or contaminated stormwater from the operation of the confined feeding facility which IDEM may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to IDEM, upon request, copies of records required to be kept by this permit.

7. **Criminal and Civil Liability:** Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.
8. **State/Tribal Laws:** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State/Tribal law or regulation under authority preserved by Section 510 of the Act.
9. **Severability:** The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

**B. Proper Operation and Maintenance**

1. **Need to halt or reduce activity not a defense:** It shall not be a defense for a permittee in an enforcement action to plead that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
2. **Duty to mitigate:** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
3. **Proper operation and maintenance:** The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

**C. Inspections**

1. **Inspection and entry:** The permittee shall allow IDEM or EPA, or an authorized representative of IDEM or EPA, upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect, at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
- d. Sample or monitor, at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

**D. Signatory Requirements**

All applications, reports, or information submitted to IDEM shall be signed and certified consistent with 327 IAC 5-2-22:

- 1. All permit applications shall be signed as follows:
  - a. The following for a corporation by a responsible corporate officer:
    - i. For purposes of this section, "a responsible corporate officer" means either of the following:
      - A. A president, secretary, treasurer, any vice president of the corporation in charge of a principal business function, or any other person who performs similar policymaking or decision making functions for the corporation.
      - B. The manager of one (1) or more manufacturing, production, or operating facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- ii. For purposes of this section, a principal executive officer of a federal agency includes the following:
  - A. The chief executive officer of the agency.
  - B. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- b. For a partnership or sole proprietorship by a general partner or the proprietor, respectively.
- c. For a municipality, state, federal, or other public agency or political subdivision thereof by either a principal executive officer or ranking elected official.
- 2. All reports required by permits and other information requested by the commissioner shall be signed by a person described in subsection (a), or by a duly authorized representative of that person. A person is a duly authorized representative only if the authorization meets the following requirements:
  - a. The authorization is made in writing by a person described in subsection (a).
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
  - c. The written authorization is submitted to the commissioner.
- 3. If an authorization under subsection (b) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (b) must be submitted to the commissioner prior to or together with any reports, information, or applications to be signed by an authorized representative.

**E. Certification and Availability of Reports**

Any person signing a document under this section shall make the following certification: “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Any information submitted pursuant to this permit may be claimed as confidential by the person submitting the information. If no claim is made at the time of submission, information may be made available to the public without further notice.

**F. Penalties for Violations of Permit Conditions**

1. Penalties for Violations of Permit Conditions

Pursuant to IC 13-30-4, a person who violates any provision of this permit or of water pollution control laws or a rule or standard adopted by the Water Pollution Control Board is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day of any violation. Pursuant to IC 13-30-6, a person who intentionally, knowingly, or recklessly violates any provision of this permit or of water pollution control laws or a rule or standard adopted by the Water Pollution Control Board commits a class D felony punishable by the term of imprisonment established under IC 35-50-2-7(a), and/or by a fine of not less than two thousand five hundred dollars (\$2,500) and not more than twenty-five thousand dollars (\$25,000) per day of violation. A person convicted for a violation committed after a first conviction under this section is subject to a fine of not more than fifty-thousand dollars (\$50,000) per day of violation.

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

**G. Permit Modification, Revocation and Re-Issuance, and Termination**

1. Pursuant to 327 IAC 5-2-8(4)(A), 327 IAC 5-2-8(4)(C) and 327 IAC 5-2-16(b), this permit may be modified, revoked and reissued, or terminated for cause, including, but not limited to, the following:

a. Violation of any term or condition of this permit; or

- b. Failure of the permittee to disclose fully all relevant facts or misrepresentation of any relevant facts by the permittee in the application or during the permit issuance process; or
- c. A change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge controlled by this permit.

The filing of a request by the permittee for a permit modification, revocation and re-issuance, or termination, or any information specified in Part III.A.5 of this permit does not stay or suspend any permit term or condition.

- 2. Pursuant to 327 IAC 5-2-8(10)(F), the permittee shall submit any information that the permittee knows or has reason to believe would constitute cause for modification or revocation and re-issuance of the permit at the earliest time such information becomes available, such as plans for physical alterations or additions to the permitted facility that:
  - a. could significantly change the nature of, or increase the quantity of, pollutants discharged; or
  - b. the commissioner may request to evaluate whether such cause exists.
- 3. A modification would only be required if the animal population increase would make the farm have more than the one thousand (1,000) animal unit number thus causing the permit conditions to change. No modification would be needed if the farm is already over the one thousand (1,000) animal units.  
(One (1) animal unit = two and one-half(2.5) swine)

#### **H. Duty to Provide Information Requested by the Commissioner**

Pursuant to 40 CFR 122.41(h), the permittee shall furnish to the Commissioner, within a reasonable time, any information which the Commissioner may request to determine compliance with this permit. Pursuant to 327 IAC 5-1-3, the permittee shall furnish to the Commissioner any reports or data necessary to carry out the provisions of Article 5 in such a manner as the commissioner may reasonably prescribe.

#### **I. Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a renewal of this permit in accordance with 327 IAC 5-2-8(2). It is the permittee's responsibility to obtain and submit the application. Pursuant to 327 IAC 5-3-2(a)(2), the application must be submitted at least 180 days before the expiration date of this permit. The Commissioner may grant permission to submit an application less than 180 days in advance of the expiration date of this permit but no later than the permit expiration date.

#### **J. Permit Transfer**

In accordance with 327 IAC 5-2-6(c), this permit may be transferred to another person by the permittee, without modification or revocation and re-issuance being required under 327 IAC 5-2-16(c)(1) or 16(e)(4), if the following occurs:

1. The current permittee notified the commissioner at least thirty (30) days in advance of the proposed transfer date.
2. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current permittee and the transferee (including acknowledgment that the existing permittee is liable for violations up to that date, and that the transferee is liable for violations from that date on) is submitted to the commissioner.
3. The transferee certifies in writing to the commissioner their intent to operate the facility without making such material and substantial alterations or additions to the facility as would significantly change the nature or quantities of pollutants being managed or the number of animals or the type of animals at the confined feeding operation and thus constitute cause for permit modification. However, the commissioner may allow a temporary transfer of the permit without permit modification for good cause, despite the transferee's intent to make such material and substantial alterations or additions to the facility.
4. The commissioner, within thirty (30) days, does not notify the current permittee and the transferee of the intent to modify, revoke and reissue, or



terminate the permit and to require that a new application be filed rather than agreeing to the transfer of the permit.

The Commissioner may require modification or revocation and re-issuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act.